MONTANA LEGISLATIVE HISTORY

Chapter 47 1987

Bill H 312 S _____ Original bill & history ✓ C

H. Committee on Local Gov't.		S. Committee on Local Gov't.	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
1/23	✓C	2/05	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 1/26	✓C	2/05	✓

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

RETURNED TO HOUSE
2/20 SIGNED BY SPEAKER
2/21 SIGNED BY PRESIDENT

2/23 TRANSMITTED TO GOVERNOR
2/25 SIGNED BY GOVERNOR
CHAPTER NUMBER 51 EFFECTIVE DATE: 2/25/87

HB 311 INTRODUCED BY KADAS
AUTHORIZING MODIFICATION OF STREET LIGHTING DISTRICTS

1/20 INTRODUCED
1/20 REFERRED TO LOCAL GOVERNMENT
1/26 HEARING
1/26 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/28 2ND READING PASSED 100 0
1/29 3RD READING PASSED 96 0

TRANSMITTED TO SENATE
1/30 REFERRED TO LOCAL GOVERNMENT
2/10 HEARING
2/11 COMMITTEE REPORT--BILL CONCURRED
2/14 2ND READING CONCURRED 49 0
2/17 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
2/19 SIGNED BY SPEAKER
2/20 SIGNED BY PRESIDENT

2/20 TRANSMITTED TO GOVERNOR
2/25 SIGNED BY GOVERNOR
CHAPTER NUMBER 46 EFFECTIVE DATE: 10/01/87

HB 312 INTRODUCED BY HANSEN, S., ET AL.
PROVIDES STAGGERED TERMS FOR MEMBERS OF THE COUNTY BOARD OF ADJUSTMENT

1/20 INTRODUCED
1/20 REFERRED TO LOCAL GOVERNMENT
1/23 HEARING
1/26 COMMITTEE REPORT--BILL PASSED
1/28 2ND READING PASSED 100 0
1/29 3RD READING PASSED 95 1

TRANSMITTED TO SENATE
1/30 REFERRED TO LOCAL GOVERNMENT
2/05 HEARING
2/06 COMMITTEE REPORT--BILL CONCURRED
2/10 2ND READING CONCURRED 50 0
2/12 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
2/19 SIGNED BY SPEAKER
2/20 SIGNED BY PRESIDENT

2/20 TRANSMITTED TO GOVERNOR
2/25 SIGNED BY GOVERNOR
CHAPTER NUMBER 47 EFFECTIVE DATE: 10/01/87

HB 313 INTRODUCED BY PAVLOVICH
ABOLISH STATE LIQUOR STORES

1/20 INTRODUCED
1/20 REFERRED TO BUSINESS & LABOR

House BILL NO. 312

INTRODUCED BY Stella Jean Hansen - Hoffman Rodda

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE STAGGERED TERMS FOR MEMBERS OF COUNTY BOARDS OF ADJUSTMENT; AND AMENDING SECTION 76-2-222, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-222, MCA, is amended to read:

"76-2-222. Membership and term of board members -- vacancies. (1) ~~The~~ Except as provided in subsection (3), the board of adjustment shall consist of five members, each to be appointed for a term of 2 years and removable for cause by the board of county commissioners upon written charges and after public hearing. The board of county commissioners may designate the same persons to act as members of the board of adjustment for unincorporated portions of the jurisdictional area as may be appointed by the municipality within the jurisdictional area under provisions of 76-2-321 through 76-2-328.

(2) Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(3) Within 30 days after January 1, 1988, the board of county commissioners shall designate two members of the board of adjustment whose terms must end in 1988 and three members whose terms must end in 1989. Subsequent appointments must be made for a term of 2 years."

-End-

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/23/87

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. BUDD GOULD	✓		
REP. REP. TIMOTHY WHALEN	✓		
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT	✓		
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA	✓		
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓		
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES	✓		

CS-30

three-year plans, many activities have changed and many activities have been picked up within the local government. The local government is in a position now where there is not much they can do. Mr. Goke stated that it was obvious that DUI arrests create some revenue. Fine convictions from city government go directly to city government.

Rep. Grinde asked if Fergus County is participating in this program?

Mr. Goke responded yes.

Rep. Connelly closed on HB 277.

CONSIDERATION OF HB 312: Rep. Hansen, House District 57, stated the bill was asking for staggered terms for members of the County Board of Adjustment. The staggered terms would allow for continuity and expertise.

PROPONENTS: Ann Mary Dussault, County Commissioner from Missoula, stood in support of HB 312. She presented a handout prepared by Howard Schwartz, Executive Officer Missoula County (Exhibit 20). She stated that all counties, cities or towns that have zoning through their jurisdiction have boards of adjustments. The boards are the first avenue that a citizen has to receive an adjustment or variance from zoning requirements. The board must issue findings of fact in making determinations. The next step is for citizens to go through the district courts. The board has significant legislative responsibilities.

Ms. Dussault stated the problem is it is the only board that does not have staggered terms. If all the board members choose to not reapply, the board would start a new term with a whole new group. She stated it was very important to have that expertise that staggered terms would allow.

OPPONENTS: None.

Rep. Hansen closed on HB 312.

DISPOSITION OF HOUSE HILL 159: Rep. Brandewie moved to DO PASS HB 159. He stated there were people present from the Department of Administration's Aeronautics Division to answer questions.

VISITORS' REGISTER

LOCAL GOVERNMENT COMMITTEE

BILL NO. HB 312 DATE Jan. 23, 1987

SPONSOR Rep. Stella Jean Hansen

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
[illegible]	[illegible]	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

at ease. Rep. Sales said usually if the council comes up with an idea that people feel they cannot afford, they can get a signed petition fairly fast. He felt the notice requirements in the bill very adequate.

Mr. Heiman read the notice provisions in Section 7-12-4303.

The question was called on Rep. Hansen's motion to DO PASS HB 311 AS AMENDED. It carried unanimously.

DISPOSITION OF HOUSE BILL 312: Rep. Sales moved to DO PASS HB 312. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 277: Rep. Brandewie moved to DO PASS HB 277.

Rep. Bulger moved to amend HB 277 on page 3, subsection 4, to read: "If the county in which the violation or violations occurred has not initiated a drinking and driving prevention program as provided then the Department shall allocate the fee to that county for support of its district court system."

He felt there was a defect in the law and did not think it fair that a county not having the DUI program should lose the money collected by the $50 fee to another county. Secondly, if that was the case, then it would be to the interest of each county to set up a program and just never meet purely to collect the money, rather than have it go to another county. He said each county should be able to maintain its own money for this purpose.

Rep. Gilbert questioned this amendment changing the intent of the bill. He offered another amendment which would state if the county did not have the program in place it would not be required to collect the fee. He felt this would keep it within the intent of the bill.

Rep. Bulger stated he could not defer to Rep. Gilbert because the county does not collect the money, the state collects it and then returns it to the particular counties.

Rep. Brown asked Mr. Heiman how far they could go within the scope of the title?

Mr. Heiman responded it is within the scope of the title because those counties where there are programs are being funded.

STANDING COMMITTEE REPORT

January 26, 19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 312

- [X] do pass
- [ ] do not pass
- [ ] be concurred in
- [ ] be not concurred in
- [ ] as amended
- [ ] statement of intent attached

Chairman

Rep. Norm Wallin

FIRST reading copy (WHITE color)

Senator Eck asked what would be the procedure for changing tax collection. Mr. Dunbar said they have 2 ordinances - administrative and definitive. The administrative requires a general election and the definitive requires only council action.

Senator Eck asked if a hotel/motel tax were instituted statewide, would you have to have an election in your community to adjust for that. Mr. Howell answered they would if they wanted to change the rate of taxation, but said they would use that type of tax as an add-on. Senator Eck said what if the taxes added up to 11%. Mr. Howell said they have an 11% hotel/motel tax right now.

Representative Sales closed the hearing on House Bill 99.

CONSIDERATION OF HOUSE BILL 312: Rep. S. J. Hansen, Missoula, District 57, said this bill would provide for staggering terms, starting in 1988, for the members of the 5-member County Board of Adjustment to insure consistency on the board.

PROPONENTS: Howard Schwarts, Missoula County Executive Officer, distributed and read Exhibit 4, advising why this is appropriate legislation, and urged the committee's support.

OPPONENTS: There were no opponents present.

QUESTIONS FROM THE COMMITTEE: Senator Harding asked what was the purpose of a Board of Adjustment. Mr. Schwartz said it is a five member board appointed by the Board of County Commissioners to 1) hear appeals from an administrative zoning decision or order and 2) hear and decide special exceptions and variances from zoning ordinances. It is a check in power to citizens as they can appeal to the Board of Adjustments if they are unhappy with the zoning commission. Any county that has zoning, has a Board of Adjustment.

Rep. Hansen closed the hearing on House Bill 312.

ACTION ON HOUSE BILL 312: Senator Eck moved that House Bill 312 BE CONCURRED IN. The motion PASSED UNANIMOUSLY. Rep. Hansen said Senator Jacobson would carry the bill in the Senate.

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 2-05-87

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
R. J. PINSONEAULT	X		
TOM BECK	X		
DOROTHY ECK	X		
H. "SWEDE" HAMMOND	X		
ETHEL HARDING	X		
LES HIRSCH	X		
PETER STORY	X		
ELEANOR VAUGHN	X		
MIKE WALKER	X		

Each day attach to minutes.

DATE February 5, 1987

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
LEE TUTT	Montana Association of Planners	SB255	X	
JEFFREY SMITH	BUTTE SILVER BOW PLANNING	SB255	X	
Kari Lei Pinkerman	Butte Silver Bow Planning	SB255	X	
Karen Munro	Dept. of Admin.	HB159	✓	
Bill Hermsil	West yellowstone	HB99	✓	
Val Dunbar	West Yellowstone DEPT. OF COMMERCE	HB99	✓	
Mike Ferguson	MT. AERONAUTICS DIV.	HB159	✓	
Howard Schweitz	Missoula County	HB312	✓	
Greg Jones	D.A. Davidson	HB99	✓	
Bryan Enderle	Missoula Chamber of Commerce	HB99	———	
J. Hal Courtney	CO. TREAS ASSOC	SB204	✓	
Shaun Egan	Butte Silver Bow	SB255	✓	
Mike Shields	Lt Governor	SB204	X	

Schwartz

SENATE LOCAL GOVERNMENT
EXHIBIT NO 4
DATE 2-5-87
BILL NO HB 312

Statement in Support of HB-312, which would provide for staggered terms for members of the County Board of Adjustment.

1. What is a County Board of Adjustment and what does it do?

The County Zoning Board of Adjustment is a five-member board appointed by the Board of County Commissioners pursuant to MCA 76-2-221 and 222 to 1) hear appeals from an administrative zoning decision or order; and 2) hear and decide special exceptions and variances from zoning ordinances (MCA 76-2-223).

2. What is the problem?

Under current law, all terms of the Board of Adjustment expire at the same time, so in cases where most of the members do not want to be reappointed, or, in the rare cases where changes are needed, counties may be left with only one or two hold-overs, and, of course, the theoretical possibility of no returning members. In those cases, there is a great loss of institutional memory, and a great lack of consistency from year to year. It is also harder for new members to learn their duties when they outnumber the old members.

3. How will HB-312 help?

Staggering terms, starting in 1988, will ensure continuity in the actions of the Board of Adjustment by making it much more likely that there will always be at least two or three hold-overs when new members are appointed.

4. Is this a major change?

This should not be considered to be a major change since almost all other County boards have staggered terms. The City Boards of Adjustment (MCA-76-2-322) also consist of five members to be appointed for a term specified by the City or Town Council. Most cities, like the City of Missoula, have chosen to stagger their terms. What HB-312 would do would be to mandate for County Boards of Adjustment what is a common practice on City Boards of Adjustment and on other County Boards. If the Legislature feels that such a mandate is inappropriate, then this bill could be amended merely to give Boards of County Commissioners the same authority that City Councils have to set the terms as they deem appropriate

Prepared by:

Howard Schwartz, Executive Officer
Missoula County
1/22/87

STANDING COMMITTEE REPORT

FEBRUARY 5 19 87

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE BILL No. 312

Third reading copy (blue color)

S. J. Hansen (Jacobson)

TO PROVIDE STAGGERED TERMS FOR MEMBERS OF COUNTY BOARDS OF ADJUSTMENT

Respectfully report as follows: That HOUSE BILL No. 312

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SEN. BRUCE D. CRIPPEN Chairman.